

1 AN ACT in relation to taxation.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Retailers' Occupation Tax Act is amended
5 by changing Section 2a as follows:

6 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

7 Sec. 2a. It is unlawful for any person to engage in the
8 business of selling tangible personal property at retail in
9 this State without a certificate of registration from the
10 Department. Application for a certificate of registration
11 shall be made to the Department upon forms furnished by it.
12 Each such application shall be signed and verified and shall
13 state: (1) the name and social security number of the
14 applicant; (2) the address of his principal place of
15 business; (3) the address of the principal place of business
16 from which he engages in the business of selling tangible
17 personal property at retail in this State and the addresses
18 of all other places of business, if any (enumerating such
19 addresses, if any, in a separate list attached to and made a
20 part of the application), from which he engages in the
21 business of selling tangible personal property at retail in
22 this State; (4) the name and address of the person or persons
23 who will be responsible for filing returns and payment of
24 taxes due under this Act; (5) in the case of a corporation,
25 the name, title, and social security number of each corporate
26 officer; (6) in the case of a limited liability company, the
27 name, social security number, and FEIN number of each manager
28 and member; and (7) such other information as the Department
29 may reasonably require. The application shall contain an
30 acceptance of responsibility signed by the person or persons
31 who will be responsible for filing returns and payment of the

1 taxes due under this Act. If the applicant will sell
2 tangible personal property at retail through vending
3 machines, his application to register shall indicate the
4 number of vending machines to be so operated; and thereafter,
5 he shall notify the Department by January 31 of the number of
6 vending machines which such person was using in his business
7 of selling tangible personal property at retail on the
8 preceding December 31.

9 The Department may deny a certificate of registration to
10 any applicant if the owner, any partner, any manager or
11 member of a limited liability company, or a corporate officer
12 of the applicant, is or has been the owner, a partner, a
13 manager or member of a limited liability company, or a
14 corporate officer, of another retailer that is in default for
15 moneys due under this Act.

16 Every applicant for a certificate of registration
17 hereunder shall, at the time of filing such application,
18 furnish a bond from a surety company authorized to do
19 business in the State of Illinois, or an irrevocable bank
20 letter of credit or a bond signed by 2 personal sureties who
21 have filed, with the Department, sworn statements disclosing
22 net assets equal to at least 3 times the amount of the bond
23 to be required of such applicant, or a bond secured by an
24 assignment of a bank account or certificate of deposit,
25 stocks or bonds, conditioned upon the applicant paying to the
26 State of Illinois all moneys becoming due under this Act and
27 under any other State tax law or municipal or county tax
28 ordinance or resolution under which the certificate of
29 registration that is issued to the applicant under this Act
30 will permit the applicant to engage in business without
31 registering separately under such other law, ordinance or
32 resolution. The Department shall fix the amount of such
33 security in each case, taking into consideration the amount
34 of money expected to become due from the applicant under this

1 Act and under any other State tax law or municipal or county
2 tax ordinance or resolution under which the certificate of
3 registration that is issued to the applicant under this Act
4 will permit the applicant to engage in business without
5 registering separately under such other law, ordinance or
6 resolution. The amount of security required by the Department
7 shall be such as, in its opinion, will protect the State of
8 Illinois against failure to pay the amount which may become
9 due from the applicant under this Act and under any other
10 State tax law or municipal or county tax ordinance or
11 resolution under which the certificate of registration that
12 is issued to the applicant under this Act will permit the
13 applicant to engage in business without registering
14 separately under such other law, ordinance or resolution, but
15 the amount of the security required by the Department shall
16 not exceed three times the amount of the applicant's average
17 monthly tax liability, or \$50,000.00, whichever amount is
18 lower.

19 No certificate of registration under this Act shall be
20 issued by the Department until the applicant provides the
21 Department with satisfactory security as herein provided for.

22 Upon receipt of the application for certificate of
23 registration in proper form, and upon approval by the
24 Department of the security furnished by the applicant, the
25 Department shall issue to such applicant a certificate of
26 registration which shall permit the person to whom it is
27 issued to engage in the business of selling tangible personal
28 property at retail in this State. The certificate of
29 registration shall be conspicuously displayed at the place of
30 business which the person so registered states in his
31 application to be the principal place of business from which
32 he engages in the business of selling tangible personal
33 property at retail in this State.

34 No certificate of registration issued to a taxpayer who

1 files returns required by this Act on a monthly basis shall
2 be valid after the expiration of 5 years from the date of its
3 issuance or last renewal. The expiration date of a
4 sub-certificate of registration shall be that of the
5 certificate of registration to which the sub-certificate
6 relates. A certificate of registration shall automatically
7 be renewed, subject to revocation as provided by this Act,
8 for an additional 5 years from the date of its expiration
9 unless otherwise notified by the Department as provided by
10 this paragraph. Where a taxpayer to whom a certificate of
11 registration is issued under this Act is in default to the
12 State of Illinois for delinquent returns or for moneys due
13 under this Act or any other State tax law or municipal or
14 county ordinance administered or enforced by the Department,
15 the Department shall, not less than 120 days before the
16 expiration date of such certificate of registration, give
17 notice to the taxpayer to whom the certificate was issued of
18 the account period of the delinquent returns, the amount of
19 tax, penalty and interest due and owing from the taxpayer,
20 and that the certificate of registration shall not be
21 automatically renewed upon its expiration date unless the
22 taxpayer, on or before the date of expiration, has filed and
23 paid the delinquent returns or paid the defaulted amount in
24 full. A taxpayer to whom such a notice is issued shall be
25 deemed an applicant for renewal. The Department shall
26 promulgate regulations establishing procedures for taxpayers
27 who file returns on a monthly basis but desire and qualify to
28 change to a quarterly or yearly filing basis and will no
29 longer be subject to renewal under this Section, and for
30 taxpayers who file returns on a yearly or quarterly basis but
31 who desire or are required to change to a monthly filing
32 basis and will be subject to renewal under this Section.

33 The Department may in its discretion approve renewal by
34 an applicant who is in default if, at the time of application

1 for renewal, the applicant files all of the delinquent
2 returns or pays to the Department such percentage of the
3 defaulted amount as may be determined by the Department and
4 agrees in writing to waive all limitations upon the
5 Department for collection of the remaining defaulted amount
6 to the Department over a period not to exceed 5 years from
7 the date of renewal of the certificate; however, no renewal
8 application submitted by an applicant who is in default shall
9 be approved if the immediately preceding renewal by the
10 applicant was conditioned upon the installment payment
11 agreement described in this Section. The payment agreement
12 herein provided for shall be in addition to and not in lieu
13 of the security required by this Section of a taxpayer who is
14 no longer considered a prior continuous compliance taxpayer.
15 The execution of the payment agreement as provided in this
16 Act shall not toll the accrual of interest at the statutory
17 rate.

18 A certificate of registration issued under this Act more
19 than 5 years before the effective date of this amendatory Act
20 of 1989 shall expire and be subject to the renewal provisions
21 of this Section on the next anniversary of the date of
22 issuance of such certificate which occurs more than 6 months
23 after the effective date of this amendatory Act of 1989. A
24 certificate of registration issued less than 5 years before
25 the effective date of this amendatory Act of 1989 shall
26 expire and be subject to the renewal provisions of this
27 Section on the 5th anniversary of the issuance of the
28 certificate.

29 If the person so registered states that he operates other
30 places of business from which he engages in the business of
31 selling tangible personal property at retail in this State,
32 the Department shall furnish him with a sub-certificate of
33 registration for each such place of business, and the
34 applicant shall display the appropriate sub-certificate of

1 registration at each such place of business. All
2 sub-certificates of registration shall bear the same
3 registration number as that appearing upon the certificate of
4 registration to which such sub-certificates relate.

5 If the applicant will sell tangible personal property at
6 retail through vending machines, the Department shall furnish
7 him with a sub-certificate of registration for each such
8 vending machine, and the applicant shall display the
9 appropriate sub-certificate of registration on each such
10 vending machine by attaching the sub-certificate of
11 registration to a conspicuous part of such vending machine.
12 The sub-certificate of registration for vending machines
13 selling only prepaid telephone calling arrangements, as
14 defined in Section 2-27, shall contain only an identification
15 number and a telephone number for the Department. The
16 Department shall establish a central information bureau to
17 receive telephone calls from persons with complaints,
18 questions, or any other issues concerning vending machines
19 selling only prepaid telephone calling arrangements. The
20 Department shall promptly transmit the information received
21 in these telephone calls to the proper retailer. That
22 retailer shall then, at his or her discretion, directly
23 contact the person who called with a response or provide a
24 response to the caller by means of the Department's
25 information bureau.

26 Where the same person engages in 2 or more businesses of
27 selling tangible personal property at retail in this State,
28 which businesses are substantially different in character or
29 engaged in under different trade names or engaged in under
30 other substantially dissimilar circumstances (so that it is
31 more practicable, from an accounting, auditing or bookkeeping
32 standpoint, for such businesses to be separately registered),
33 the Department may require or permit such person (subject to
34 the same requirements concerning the furnishing of security

1 as those that are provided for hereinbefore in this Section
2 as to each application for a certificate of registration) to
3 apply for and obtain a separate certificate of registration
4 for each such business or for any of such businesses, under a
5 single certificate of registration supplemented by related
6 sub-certificates of registration.

7 Any person who is registered under the "Retailers'
8 Occupation Tax Act" as of March 8, 1963, and who, during the
9 3-year period immediately prior to March 8, 1963, or during a
10 continuous 3-year period part of which passed immediately
11 before and the remainder of which passes immediately after
12 March 8, 1963, has been so registered continuously and who is
13 determined by the Department not to have been either
14 delinquent or deficient in the payment of tax liability
15 during that period under this Act or under any other State
16 tax law or municipal or county tax ordinance or resolution
17 under which the certificate of registration that is issued to
18 the registrant under this Act will permit the registrant to
19 engage in business without registering separately under such
20 other law, ordinance or resolution, shall be considered to be
21 a Prior Continuous Compliance taxpayer. Also any taxpayer who
22 has, as verified by the Department, faithfully and
23 continuously complied with the condition of his bond or other
24 security under the provisions of this Act for a period of 3
25 consecutive years shall be considered to be a Prior
26 Continuous Compliance taxpayer.

27 Every Prior Continuous Compliance taxpayer shall be
28 exempt from all requirements under this Act concerning the
29 furnishing of security as a condition precedent to his being
30 authorized to engage in the business of selling tangible
31 personal property at retail in this State. This exemption
32 shall continue for each such taxpayer until such time as he
33 may be determined by the Department to be delinquent in the
34 filing of any returns, or is determined by the Department

1 (either through the Department's issuance of a final
2 assessment which has become final under the Act, or by the
3 taxpayer's filing of a return which admits tax that is not
4 paid to be due) to be delinquent or deficient in the paying
5 of any tax under this Act or under any other State tax law or
6 municipal or county tax ordinance or resolution under which
7 the certificate of registration that is issued to the
8 registrant under this Act will permit the registrant to
9 engage in business without registering separately under such
10 other law, ordinance or resolution, at which time that
11 taxpayer shall become subject to all the financial
12 responsibility requirements of this Act and, as a condition
13 of being allowed to continue to engage in the business of
14 selling tangible personal property at retail, shall be
15 required to post bond or other acceptable security with the
16 Department covering liability which such taxpayer may
17 thereafter incur. Any taxpayer who fails to pay an admitted
18 or established liability under this Act may also be required
19 to post bond or other acceptable security with this
20 Department guaranteeing the payment of such admitted or
21 established liability.

22 No certificate of registration shall be issued to any
23 person who is in default to the State of Illinois for moneys
24 due under this Act or under any other State tax law or
25 municipal or county tax ordinance or resolution under which
26 the certificate of registration that is issued to the
27 applicant under this Act will permit the applicant to engage
28 in business without registering separately under such other
29 law, ordinance or resolution.

30 Any person aggrieved by any decision of the Department
31 under this Section may, within 20 days after notice of such
32 decision, protest and request a hearing, whereupon the
33 Department shall give notice to such person of the time and
34 place fixed for such hearing and shall hold a hearing in

1 conformity with the provisions of this Act and then issue its
2 final administrative decision in the matter to such person.
3 In the absence of such a protest within 20 days, the
4 Department's decision shall become final without any further
5 determination being made or notice given.

6 With respect to security other than bonds (upon which the
7 Department may sue in the event of a forfeiture), if the
8 taxpayer fails to pay, when due, any amount whose payment
9 such security guarantees, the Department shall, after such
10 liability is admitted by the taxpayer or established by the
11 Department through the issuance of a final assessment that
12 has become final under the law, convert the security which
13 that taxpayer has furnished into money for the State, after
14 first giving the taxpayer at least 10 days' written notice,
15 by registered or certified mail, to pay the liability or
16 forfeit such security to the Department. If the security
17 consists of stocks or bonds or other securities which are
18 listed on a public exchange, the Department shall sell such
19 securities through such public exchange. If the security
20 consists of an irrevocable bank letter of credit, the
21 Department shall convert the security in the manner provided
22 for in the Uniform Commercial Code. If the security consists
23 of a bank certificate of deposit, the Department shall
24 convert the security into money by demanding and collecting
25 the amount of such bank certificate of deposit from the bank
26 which issued such certificate. If the security consists of a
27 type of stocks or other securities which are not listed on a
28 public exchange, the Department shall sell such security to
29 the highest and best bidder after giving at least 10 days'
30 notice of the date, time and place of the intended sale by
31 publication in the "State Official Newspaper". If the
32 Department realizes more than the amount of such liability
33 from the security, plus the expenses incurred by the
34 Department in converting the security into money, the

1 Department shall pay such excess to the taxpayer who
2 furnished such security, and the balance shall be paid into
3 the State Treasury.

4 The Department shall discharge any surety and shall
5 release and return any security deposited, assigned, pledged
6 or otherwise provided to it by a taxpayer under this Section
7 within 30 days after:

8 (1) such taxpayer becomes a Prior Continuous
9 Compliance taxpayer; or

10 (2) such taxpayer has ceased to collect receipts on
11 which he is required to remit tax to the Department, has
12 filed a final tax return, and has paid to the Department
13 an amount sufficient to discharge his remaining tax
14 liability, as determined by the Department, under this
15 Act and under every other State tax law or municipal or
16 county tax ordinance or resolution under which the
17 certificate of registration issued under this Act permits
18 the registrant to engage in business without registering
19 separately under such other law, ordinance or resolution.
20 The Department shall make a final determination of the
21 taxpayer's outstanding tax liability as expeditiously as
22 possible after his final tax return has been filed; if
23 the Department cannot make such final determination
24 within 45 days after receiving the final tax return,
25 within such period it shall so notify the taxpayer,
26 stating its reasons therefor.

27 (Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

28 Section 99. Effective date. This Act takes effect on
29 July 1, 2001.